

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 13th day of November 2003, at 8:00 P.M., and there were

**PRESENT:**            **ANTHONY ESPOSITO, MEMBER**  
**JOSEPH GIGLIA, MEMBER**  
**WILLIAM MARYNIEWSKI, MEMBER**  
**RICHARD QUINN, MEMBER**  
**ARLIE SCHWAN, MEMBER**  
**ROBERT THILL, MEMBER**  
**JEFFREY LEHRBACH, CHAIRMAN**

**ABSENT:**            **NONE**

**ALSO PRESENT:**    **JOHANNA M. COLEMAN, TOWN CLERK**  
**RICHARD SHERWOOD, TOWN ATTORNEY**  
**GEORGE PEASE, ASSISTANT BUILDING INSPECTOR**

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF TIMOTHY & LINDA MCGOVERN:**

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the adjourned petition of Timothy and Linda McGovern, 1 Nottingham Lane, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioner at 1 Nottingham Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Nottingham Lane with an exterior side yard [considered a front yard equivalent] fronting on Thomas Drive. The petitioners propose to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Thomas Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a three [3] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Timothy & Linda McGovern  
1 Nottingham Lane  
Lancaster, New York 14086

Petitioners

Richard Woods  
8 Thomas Drive  
Lancaster, New York 14086

Opponent

Lynn Woods  
8 Thomas Drive  
Lancaster, New York 14086

Opponent

**IN THE MATTER OF THE PETITION OF TIMOTHY & LINDA MCGOVERN**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. ESPOSITO, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Timothy & Linda McGovern and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the benefit sought by the applicants can be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief may have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is not the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be considered.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED NO
MR. GIGLIA	VOTED NO
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **DENIED**.

November 13, 2003

**PETITION OF SIGNS UNLIMITED, INC:**

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Signs Unlimited, Inc., 7611 Southwestern Boulevard, Eden, New York 14057 for two [2] variances for the purpose of erecting two [2] ground signs on premises owned by Evans National Bank at 4979 Transit Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 30 F.(2)(c)[2] of the Code of the Town of Lancaster to permit two [2] ground signs on one lot.

Chapter 50, Zoning Section 30F.(2)(c)[2] of the Code of the Town of Lancaster permits one ground sign per individual building lot. A variance for one [1] additional ground sign is required.

- B. A variance from the requirements of Chapter 50, Zoning 30F.(2)(c)[2][a] of the Code of the Town of Lancaster to permit a sign height of eleven [11] feet over finished grade.

Chapter 50, Zoning, Section 30F.(2)(c)[2][a] of the Code of the Town of Lancaster limits the height of a ground sign to four [4] feet above finished grade. The petitioner, therefore, requests a seven [7] foot ground sign height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying Mary Holtz, Cheektowaga Town Clerk of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

James Allen, Signs Unlimited, Inc. 7611 Southwestern Boulevard Eden, New York 14057	Petitioner
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James Nunan, Officer of Evans National Bank 14-16 North Main Street Angola, New York 14006	Proponent
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Upon a motion by Mr. Thill and seconded by Mr. Esposito to consider both variances as one action by voice vote, all in favor, none opposed. Motion carried.

**IN THE MATTER OF THE PETITION OF SIGNS UNLIMITED, INC.**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Signs Unlimited, Inc. and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the duly authorized agent of the owner or purchaser.

That the property for which the applicant is petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the General Business District, (GB) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning has made no comments or recommendations on the proposed zoning action.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however has been mitigated.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the proposal is consistent with the commercial area.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on  
roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED.**

November 13, 2003

**PETITION OF DANIEL & TAMMY SMITH:**

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Daniel and Tammy Smith, 53 Parkdale Drive, Lancaster, New York 14086 for three [3] variances for the purpose of constructing a detached garage on property located at 38 Glendale Drive, Lancaster, New York, and owned by Paul Cudeck of 100 Court Street, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is one thousand two hundred eighty [1,280] square feet.

Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioners, therefore, request a five hundred thirty [530] square foot variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster. The height of the proposed accessory structure is twenty [20] feet.

Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioners, therefore, request a four [4] foot height variance.

- C. A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Parkdale Drive with an exterior side yard [considered a front yard equivalent] fronting on Glendale Drive. The location of the proposed garage will result in a twenty-five [25] foot exterior side yard set back on Glendale Drive.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty five 35 foot exterior side yard set back on Glendale Drive. The petitioners, therefore, request a ten [10] foot exterior side yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Daniel Smith  
53 Parkdale Drive  
Lancaster, New York 14086

Petitioner

Tammy Smith  
53 Parkdale Drive  
Lancaster, New York 14086

Petitioner

Jeanette Pequeur  
39 Glendale Drive  
Lancaster, New York 14086

Proponent

Joseph Karb  
41 Glendale Drive  
Lancaster, New York 14086

Proponent

Upon a motion by Mr. Thill and seconded by Mr. Esposito to consider the three variances as one action by voice vote, all in favor, none opposed. Motion carried.

**IN THE MATTER OF THE PETITION OF DANIEL & TAMMY SMITH**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. MARYNIEWSKI  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Daniel & Tammy Smith and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the purchasers of property subject to variance grant.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following two (2) conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That no commercial enterprise, other than those permitted by Code of the Town of Lancaster, be conducted on the premises.
- Proposed location is not less than thirty (30) feet from Glendale Drive for the health, safety and welfare of neighbors.



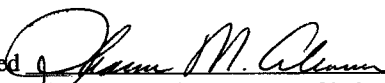
The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

November 13, 2003

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was  
adjourned at 9:52 P.M.

Signed   
Johanna M. Coleman, Town Clerk  
Dated: November 13, 2003